

OCA 86-1876
6 June 1986

MEMORANDUM FOR THE RECORD

SUBJECT: Senate Labor & Human Relations Committee
Hearing on S. 1815

1. On April 23, 1986, the Senate Labor & Human Relations Committee held a hearing on S. 1815, a bill to ban the private use of polygraphs. Committee Members present for most of the hearing were Senators Hatch, Kennedy (Chairman and Ranking Minority Member respectively and cosponsors of S. 1815), Nichols and Kerry.

2. There were approximately seven "panels" of witnesses. The first panel consisted of Representatives Pat Williams and Stewart McKinney, principal architects of H.R. 1524, the House companion.

3. The second panel consisted of Stephen Markman, Department of Justice, supported by several Justice officials. He testified in opposition to the bill on the grounds that it was contrary to the principles of federalism. He was asked several questions by the Members.

4. Senator Hatch claimed that, with reference to this bill and to a labor violence bill, Justice was taking inconsistent positions on federalism issues. Mr. Markman, however, dispelled the inconsistency.

5. Senator Kerry asked what should be done about situations where residents of a state banning polygraphs are polygraphed out-of-state. Mr. Markman responded that he thought such situations were anecdotal but that if the problem was shown to be substantial, Justice might change its position and support limited legislation dealing exclusively with that situation.

4. The remaining panels consisted of various individuals from the private sector: proponents, opponents, "victims", lawyers (including F. Lee Bailey) and others.

5. Justice has indicated to the Committee that it will recommend a veto should the measure pass. Justice wants to gauge the reaction to this and to the hearing. If the Committee still wishes to press forward, coordinated language exempting employees of government contractors could be supplied to the Committee.

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